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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

F.G., H.I., T.U., and V.W., individually and on  
behalf of all others similarly situated

Plaintiffs,

v.

COOPERSURGICAL, INC.; THE COOPER  
COMPANIES, INC.; and DOES 1-10, inclusive,

Defendants.

Case No. 4:24-cv-01261-JST

Assigned to: Hon. Jon S. Tigar

**FURTHER JOINT CASE MANAGEMENT  
STATEMENT**

1 Pursuant to this Court’s order dated September 30, 2024, Civil L.R. 16-9, and the Standing Order  
2 for All Judges of the Northern District of California, Plaintiffs F.G., H.I., T.U., and V.W., and  
3 Defendants The Cooper Companies, Inc. (“Cooper Companies”) and CooperSurgical, Inc.  
4 (“CooperSurgical”) (collectively, the “Parties”), by and through their respective counsel of record,  
5 hereby submit the following Further Joint Case Management Statement to provide their respective  
6 positions.

7 The Court’s prior September 12 order instructed the Parties to address the sole topic of “what  
8 action the Court should take on the pending motions to dismiss and motion to strike, ECF Nos. 67, 68,  
9 69, in light of the Court’s recent Order Granting Defendants’ Motions to Dismiss and Granting Plaintiffs  
10 Jurisdictional Discovery in *Walden v. CooperSurgical*, 4:24-cv-00903-JST (N.D. Cal. Sept. 9, 2024).”  
11 (Order, ECF No. 84.) At the Parties’ request, the Court’s September 30 order instructed the Parties to  
12 submit a further status update addressing that issue of the pending motions to dismiss and strike within  
13 seven (7) days of a decision by the JPML on the outstanding petition to transfer and centralize the  
14 related cases. (Order, ECF No. 86.) On October 4, 2024, the JPML denied Plaintiffs’ petition to transfer  
15 and centralize. *See* Ex. A, Order Denying Petition. The Parties hereby provide their respective positions  
16 on proposed next steps, and request a case management conference at the Court’s next availability.

17 As laid out below, the parties agree that the Court should defer ruling on CooperCompanies’  
18 motion to dismiss (ECF No. 67) in full, as well as that it would be appropriate for the Court to proceed  
19 now with deciding Defendants’ motion to strike (ECF No. 69), and—should the Court request it—will  
20 make themselves available for a hearing on the latter at the Court’s convenience. The only point of  
21 contention is with respect to CooperSurgical’s motion to dismiss (ECF No. 68)—specifically, while the  
22 parties agree that the Court should defer with respect to the portion of that motion directed to the non-  
23 California Plaintiffs (for the same reasons as with CooperCompanies’ motion to dismiss and in light of  
24 *Walden*), they disagree whether the Court should take up the remainder of that motion to dismiss with  
25 respect to the California Plaintiffs.

26 The parties lay out their respective positions below on that lone point of contention and jointly  
27 request a case management conference to discuss this Joint Statement at the Court’s convenience.  
28

**I. Plaintiffs' Position and Statement**

Plaintiffs believe this Court has full authority to resolve CooperSurgical's motion to dismiss and should do so. Given the JPML's denial of the petition to centralize, there is no longer reason for the Court to defer ruling on the pending motions based on potential judicial efficiency considerations.

As laid out in the Parties' July 24, 2024 joint stipulation, ECF No. 74, Defendants did not move on jurisdiction and venue issues as to California plaintiffs. Plaintiffs contend that the Court therefore has jurisdiction to address the merits of CooperSurgical's motion to dismiss as to the California plaintiffs, T.U. and V.W. It is not correct that dismissal of the non-California plaintiffs would require dismissal of any of the causes of action in the class complaint. And, as a practical matter, moving forward on the motion to dismiss will not result in judicial inefficiency, as the parties can coordinate to avoid duplicative briefing on overlapping issues if and when the Court resolves jurisdiction over the non-California plaintiffs. Discovery is already beginning and demurrers have been denied in California state court actions arising from the same recall. *See* Ex. B Order Denying CooperSurgical Inc. Demurrer, *A.B. et al v. CooperSurgical et al.*, No. 23STCV30523 (Oct. 8, 2024 L.A. Cnty. Super. Ct); and Ex. C, Order Denying The Cooper Companies, Inc. Demurrer, *A.B. et al v. CooperSurgical et al.*, No. 23STCV30523 (Oct. 9, 2024 L.A. Cnty. Super. Ct).<sup>1</sup> Defendants' concerns regarding this case advancing ahead of other cases are therefore unfounded.

In short, having filed their complaint over seven months ago, Plaintiffs are eager and prepared to move forward. Plaintiffs therefore respectfully request that the Court decide all pending motions in the sequence the Court deems appropriate, and request both a hearing date for the motions and case management conference at the Court's convenience.

**II. Defendants' Position and Statement**

Defendants respectfully submit that judicial efficiency favors the Court deferring ruling on the CooperSurgical's motion to dismiss (ECF No. 68) in full. As Plaintiffs acknowledge, the Court's adjudication of the issue of personal jurisdiction in *Walden* will resolve that same issue here with respect to the non-California Plaintiffs (F.G. and H.I.). Thus, while personal jurisdiction may lie as to

<sup>1</sup> Plaintiffs will concurrently file a notice of supplemental authority of these two orders.

CooperSurgical for the claims of California Plaintiffs T.U. and V.W., the ultimate ruling in *Walden* may result in the dismissal of the non-California Plaintiffs' claims, which would change the complexion of this action, as well as obviate the need to rule on the substantive aspects of that motion as well with respect to those non-California Plaintiffs.

Moreover, as to both motions to dismiss, the Court had previously determined in setting the briefing schedule and procedure with respect to *Walden* that the Court preferred to address the issues of venue and jurisdiction before addressing the more substantive aspects of Defendants' motions in the various cases. Defendants submit that it makes more sense not to have one set of Plaintiffs' claims in one case in this coordinated, related litigation<sup>2</sup> get out ahead of the other cases here, and that it would be more efficient for the Court overall in terms of timing and coordination of the cases to determine whether and to what extent any other Plaintiffs may remain across these related actions, and against whom, following the Court's determinations as to venue and jurisdiction, so the Court may align and coordinate the adjudication of the substantive aspects of the motions to dismiss across any remaining actions. Indeed, as it did with the jurisdiction/venue briefing in *Walden*, the Court may wish to coordinate or consolidate additional briefing on the substantive aspects of the motion to dismiss as to any remaining actions, which further weighs in favor of deferring on the motions to dismiss here.

DATED: October 11, 2024

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<sup>2</sup> Defendants submit Plaintiffs' reference to rulings in the state-court litigation is inapposite, considering those were made under entirely different pleading standards. Indeed, this Court has already ruled that CooperCompanies was not properly joined under Rule 8 based on the pleadings here.

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**ATTESTATION OF FILER**

Pursuant to Civil L.R. 5-1(i)(3), the undersigned filer hereby attests that all signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

Dated: October 11, 2024

/s/ Dena C. Sharp

Dena C. Sharp

**CERTIFICATE OF SERVICE**

I hereby certify that on October 11, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

/s/ Dena C. Sharp

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